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# IN THE SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 1938.

No. [redacted] 7

ROLLA W. COLEMAN, W. A. BARRON, CLAUDE C. BRADNEY, ET AL.,
PETITIONERS,

*vs.*

CLARENCE W. MILLER, AS SECRETARY OF THE SENATE OF THE STATE OF KANSAS, ET AL.,
RESPONDENTS.

## BRIEF ON BEHALF OF RESPONDENTS.

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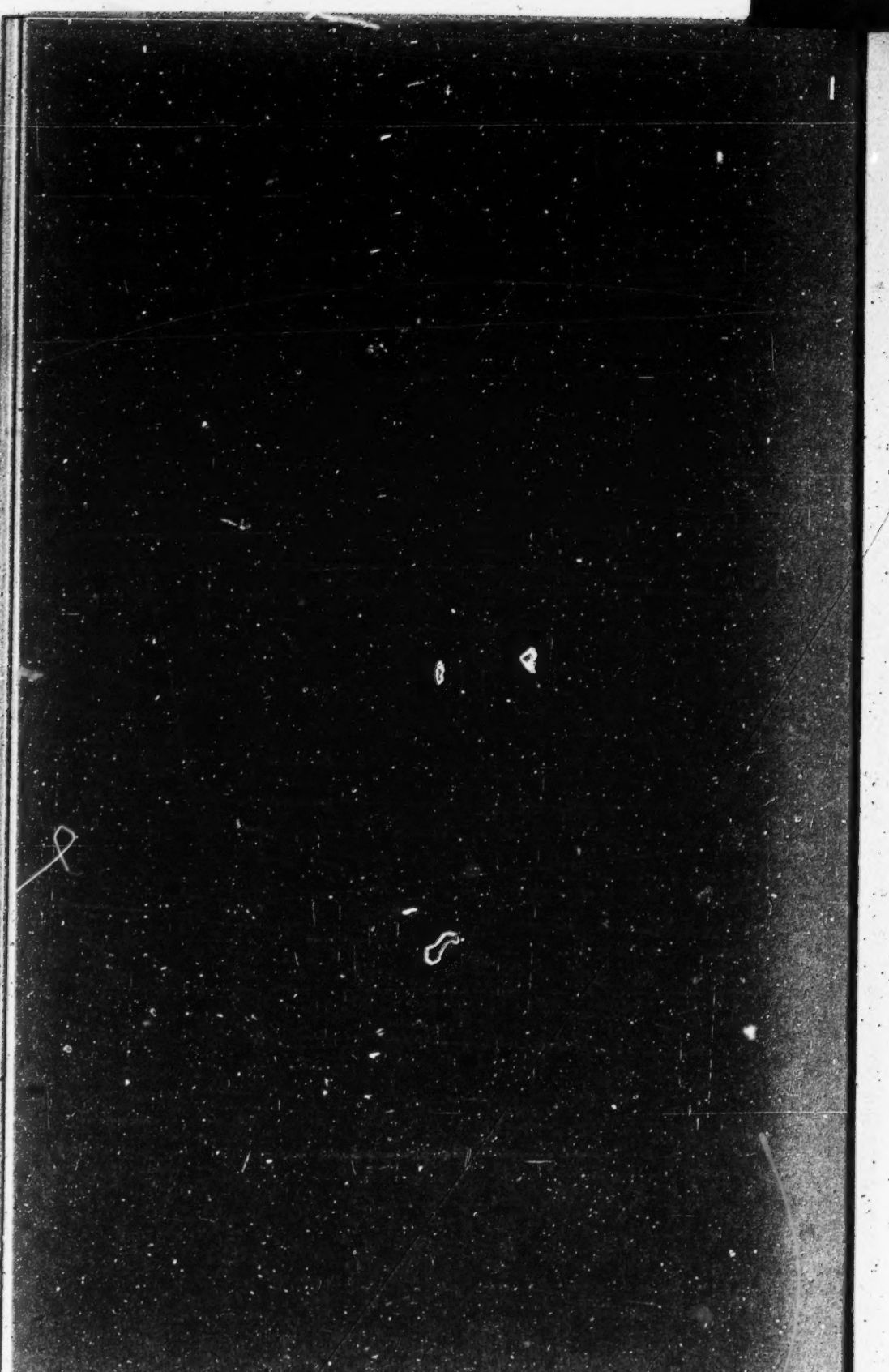

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# IN THE SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 1938.

## No. 796.

ROLLA W. COLEMAN, W. A. BARRON, CLAUDE C. BRADNEY, ET AL.,
PETITIONERS,

*vs.*

CLARENCE W. MILLER, AS SECRETARY OF THE SENATE OF THE STATE OF KANSAS, ET AL.,
RESPONDENTS.

## BRIEF ON BEHALF OF RESPONDENTS.

This case is here on Writ of Certiorari to the Supreme Court of the State of Kansas, which court held that the action of the Kansas Legislature in ratifying the proposed Child Labor Amendment was regular. The opinion of the Court below is reported in Coleman v. Miller, 146 Kansas at page 390. As stated by the petitioners, there is no material dispute as to the facts.

The petitioners in this appeal have asserted four specifications of error.

1. The resolution ratifying the proposed child labor amendment was not adopted by the Kansas Legislature, for the reason that the Lieutenant Governor had no right to vote on the resolution. The vote of

the Senate, all members being present, was evenly divided, and the Lieutenant Governor gave the casting vote.

2. The Legislature of the State of Kansas was without power to adopt a resolution ratifying the proposed child labor amendment, for the reason that in 1925 the legislature of the State of Kansas adopted an affirmative resolution rejecting this amendment, filed notification thereof with the secretary of state of the United States, and adjourned sine die.

3. The proposed child Labor Amendment was withdrawn from consideration by the States for the reason that by the end of 1927 the legislatures of more than one-fourth of the States, acting affirmatively, had voted to reject said proposed amendment.

4. The proposed child labor amendment has lost its potency by reason of old age. More than a reasonable length of time has expired since the child labor amendment was proposed by Congress.

The Supreme Court of Kansas in its opinion below, reported in the case of Coleman v. Miller, 146 Kan. 390, held that the resolution ratifying the proposed amendment was regularly adopted by the Kansas legislature; that the rejection by the Kansas legislature of 1925 was ineffectual and of no consequence; and that the proposed Child Labor Amendment to the Constitution of the United States retains its validity and vitality as a proposed amendment.

The Court of Appeals of Kentucky in Wise v. Chandler, et al., 108 S. W. (2d.) 1024, held that the rejection by the Legislature of a proposed amendment to the Constitution was binding on the state and it could not recon-

sider the action; and that the proposed Child Labor Amendment was impotent by reason of age.

The solution of the question is in the construction of Article 5 of the Constitution and so far as pertinent it is as follows:

> "The Congress, whenever two-thirds of both houses shall deem it necessary, shall propose amendments to this Constitution, *** which *** shall be valid to all intents and purposes as part of this Constitution, when ratified by the legislatures of three-fourths of the several States or by conventions in three-fourths thereof, as the one or the other mode of ratification may be proposed by the congress. *** "

This court has construed this article as follows: "That two-thirds of both houses means two-thirds of the members present, assuming the presence of a quorum, and that the adoption of the resolution by the Congress sufficiently shows that the proposal was deemed necessary." (National Prohibition Cases, 253 U. S. 350.) That the approval of the president is not necessary. (Hollingsworth v. Virginia, 3 Dall. 378, 1 L. Ed. 644.) That when Congress submits an amendment to a state legislature it cannot be ratified by conventions in the states. (U. S. v. Sprague, 282 U. S. 716.) That the power of the state legislature to ratify a proposed amendment to the federal constitution has its origin in the federal constitution; and it is illegal for a state to require a referendum on a constitutional amendment (Hawke v. Smith, 253 U. S. 221); that the approval of the governer of the state is not necessary (Smiley v. Holm, 285 U. S. 355); that the ratification must be within some reasonable time

after the proposal and that the Congress has the power within reasonable limits to fix the period for ratification (Dillon v. Gloss, 256 U. S. 368); that there is no implied limitation upon the amending power (Leser v. Garnett, 258 U. S. 130); that official notice to the secretary of state, duly authenticated, that the state has ratified the proposed amendment is conclusive upon him and the certified proclamation of the Secretary of State that the proposed amendment has been regularly ratified is conclusive upon the courts. (Leser v. Garnett, supra.)

The effect of the affirmative rejection of a proposed amendment by a state; and the length of time that may be considered reasonable for a proposed amendment to retain its potency, in the absence of a limitation fixed by Congress, has not been determined by this court.

## ARGUMENT.

### I.

The petitioners contend that the resolution ratifying the proposed amendment did not pass the legislature of Kansas because the lieutenant governor cast the deciding vote. This question was presented to the Supreme Court of the State of Kansas and the opinion of that court, set out at pages 34 to 49 in the Record, determined the issue. It held that the lieutenant governor had the right, under the Kansas Constitution, to vote on a concurrent resolution as a member of the senate; but he does not have the right to vote on a bill or joint resolution as defined in the constitution of the State of Kansas. We think the rule that the Federal Courts are bound to

follow the decision of the highest courts of the state upon questions relating to the construction of the state constitution settles this question. (Green v. Frazier, 253 U. S. 233, and cases there cited; 25 C. J. 832.) This rule, we think, is especially applicable to the question here under consideration for the reason that this court has held that it is not necessary for the governnor of a state to approve acts of the legislature under the authority of the Federal Constitution. (Smiley v. Holm, 285 U. S. 355, supra.) This is the precise distinction made by the Supreme Court of the State of Kansas in holding a concurrent resolution to be an expression of assent, and not "a bill or joint resolution which requires the approval of the governor."

Those issues involved the constitution; and the application of the statutes and constitution of the State. As to them, the judgment of its highest court is conclusive.

Senn v. Tile Layers Protective Union, 301 U. S. 468, 81 L. Ed. 1229.

See also:

Louisville Gas Co. v. Coleman, 277 U. S. 32, 72 L. Ed. 770.
Powell v. Alabama, 287 U. S. 45, 77 L. Ed. 158.
Georgia Electric Company v. Decatur, 295 U. S. 165, 79 L. Ed. 1365.
Guaranty Trust Co. v. Blodgett, 287 U. S. 509, 77 L. Ed. 463.
Anglo-Chilean Nitrate v. Albama, 288 U. S. 218, 77 L. Ed. 710.
Hartford Accident Co. v. Nelson, 291 U. S. 352, 78 L. Ed. 840.

The validity of the legislative proceedings in the State of Kansas having been passed upon and approved by the Supreme Court of the State of Kansas, the same is conclusive upon this court and is no longer an open question. We shall not argue it further.

## II.

The petitioners contend that the resolution adopted by the Kansas legislature of 1925 affirmatively rejecting the proposed amendment, and notifying the Secretary of State of the United States thereof precluded subsequent action on the part of the State of Kansas. The resolution adopted by the Kansas legislature in 1925 and filed with the secretary of state, among other things, provided that the "said proposed amendment to the constitution of the United States of America be and the same is hereby rejected by the legislature of the state of Kansas." (R. 4)

The Article of the Constitution under consideration provides that the proposed amendment shall become a part of the Constitution "when ratified by the legislatures of three-fourths of the several States." This court has determined that the power of the State Legislatures to ratify is derived from the Federal Constitution. The States act only under the authority there conferred. They can take no affirmative action except to ratify. They may refuse to ratify, which is equivalent to no action. The resolution passed by the legislature of the State of Kansas in 1925 is without effect on the proposed amendment because the Federal Constitution does not give it

the power affirmatively to reject. Such action must be construed as a refusal to ratify.

Wayne B. Wheeler of Columbus, Ohio published an article in 20 Case and Comment, page 548. He quotes from Chief Justice Marshall in Fletcher v. Peck, 3 L. Ed. 162, as follows:

> "The principle is asserted, that one legislature is competent to repeal any act which a former legislature was competent to pass; and that one legislature cannot abridge the powers of a succeeding legislature. The correctness of this principle, so far as respects general legislation, can never be controverted. But if an act be done under the law, a succeeding legislature cannot undo it. The past cannot be recalled by the most absolute power."

and concludes:

> "The underlying principle in this case is that where the result of the vote is negative, it is the same as though no action had been taken. If it is affirmative, it exhausts power under the right to vote, and is final. Thus, where a vote has once been taken with an affirmative result, the power under the act is exhausted, and the result cannot be rescinded by a subsequent vote; but until an affirmative action is taken the power to have another vote is not exhausted."

In Yale Law Journal, Volume 30, page 133, W. F. Todd writing on this question said:

> "On the other hand, it is perhaps clear that a state legislature has a continuing power of ratification until an amendment is adopted, or until such a long period has elapsed that a sort of statute of limitations may be said to have run against any power to ratify the proposal. It may be remembered

that the power in the state legislature is one derived from the federal Constitution, and is a power to ratify, not a power to reject." (p. 347.)

To our mind the resolution of 1925 by the legislature of the State of Kansas rejecting the proposed amendment was beyond the power of the Legislature and its action, except as it may be construed as a refusal to ratify, was a nullity. It has no effective place in the files of the Secretary of State. The reasoning in the opinion of the Supreme Court of Kansas, and the authorities there cited, seem conclusive upon this point. This court has quoted approvingly in Dillon v. Gloss, supra, from Judge Jameson, and on this question Judge Jameson said:

> "The language of the constitution is, that amendments proposed by congress, in the mode prescribed, 'shall be valid to all intents and purposes, as part of this constitution, when ratified by the legislatures of three-fourths of the several states,' etc. By this language is conferred upon the states, by the national constitution, a special power; it is not a power belonging to them originally by virtue of rights reserved or otherwise. When exercised, as contemplated by the constitution, by ratifying, it ceases to be a power, and any attempt to exercise it again must be nullity. But, until so exercised, the power undoubtedly, for a reasonable time at least, remains." (Jameson on Constitutional Conventions, sec. 579.)

The soundness of the court's reasoning in the case of Coleman v. Miller, supra, together with the set of authorities cited therein, justifies the respondents in adopting much of the argument therein used. In addition to the

arguments advanced by the courts and text writers as above set out, the state believes that an even stronger argument leading to the same result may be advanced.

> "For the purpose of a treatise on the constitutional law of the United States as it exists today, it is sufficient to describe the constitution as a legal instrument distributing governmental powers between the federal and state governments, according to the general principle that the powers granted the federal government are specified, expressly or by implication, and that the remainder of the possible governmental powers not delegated to the United States by the constitution, nor prohibited by it to the states are reserved to the states respectively, or to the people." (Tenth Amendment.)
>
> Willoughby on Constitution of United States, 2d Ed. Vol. 1, p. 76.

It is elementary that a proposal from Congress to amend the Constitution of the general government is nothing more than a request from the general government, directed to each of the states, requesting the surrender of a portion of their possible governmental powers. Until such time as three-fourths of the states acceed to that request, that portion of their possible governmental powers sought by Congress remains a portion of their sovereignty. While that sovereign power remains in the states, it is subjected to the control and exercise of one body—the state legislature. One legislature, while acting within its sovereign power, cannot take any action which will bind the hands of any succeeding Legislature. We contend that the rejection by the legislature of the State of Kansas in 1925 of the proposed amendment, had no more effect on succeeding legislatures than

if the proposal to amend had never been before the legislative body. Once, however, a legislature has ratified a proposed amendment, then that state has effectively surrendered a portion of its sovereign power, and no succeeding legislature may recapture that power when it has been delegated to the general government. After delegation through ratification, that possible governmental power is no longer a matter of state sovereignty; it then becomes in the nature of a contract with the general government and with the government of the forty-seven other states, the terms being that if three-fourths of the states surrender the same possible governmental power, then such power in the future can be exercised by the general government.

It is true that if three-fourths of the states fail to delegate such possible governmental power to the general government, the states which have ratified the proposed amendment continue to possess such power, but that authority remains because of non-ratification by a sufficient number of States. It depends upon the actions or nonactions of other sovereign state governments. The fact that more than one-fourth of the other states have at this time voted to reject the proposed amendment does not of itself extinguish the proposed amendment; for each of these several states may, in the exercise of their sovereign legislative powers, change that vote at the next session of the legislature. The hands of the succeeding legislatures are not tied by any failure or refusal to ratify. The succeeding legislatures, in the absence of ratification, have sovereign control over that

possible governmental function. They may legislate in the exercise of that function with a hope of accomplishing the ends desired without surrendering that power to the general government. The state may find that its local legislature is not effective to accomplish the end desired and now may be willing to surrender that governmental power to the general government. As above set out, the hands of succeeding legislatures are not tied by any previous refusal, and it may be that at the next session more than three-fourths of the states will expressly ratify the proposed amendment.

## III.

The petitioners next contend that the proposed amendment has been defeated because more than one-fourth of the States have voted affirmatively to reject the proposed amendment.

Petitioners give no authority for this contention other than quoting from an article in the American Bar Association Journal for July, 1934. The author of such article reasons that the rule permitting States to ratify should work both ways; that if, States have the power to ratify they should have the power to defeat a proposed amendment and cause its withdrawal from further consideration. The answer to this is that Article 5 gives the States no such power. The State has but one power and that is to ratify.

Suppose within two years after submission the Eighteenth Amendment had been rejected by more than one-fourth of the States, voting affirmatively; and ther

within the seven-year prescribed period been ratified by three-fourths of the States. It seems inconceivable that the action of the States in affirmatively rejecting could defeat the action of Congress in submitting the proposed amendment and placing a seven-year limitation on its ratification. Congress has the right to propose amendments when it deems them necessary. It has the right to fix a reasonable limitation upon the period within which such proposed amendments shall be ratified. Such proposed amendments receive their vitality from Congress and cannot be extinguished by the States. No implication in Article Five gives the States any right to extinguish a proposed amendment.

## IV.

It is contended by the petitioners that the proposed amendment has lost its potency by reason of age. This court in Dillon v. Gloss, supra, said:

> "It will be seen that this article says nothing about the time within which ratification may be had—neither that it shall be unlimited nor that it shall be fixed by Congress. What, then, is the reasonable inference or implication? Is it that ratification may be had at any time, as within a few years, a century, or even a longer period; or that it must be had within some reasonable period which Congress is left free to define? Neither the debates in the Federal convention which framed the Constitution nor those in the state conventions which ratified it shed any light on the question.
>
> "The proposal for the 18th Amendment is the first in which a definite period for ratification was fixed. Theretofore twenty-one amendments had been pro-

posed by Congress and seventeen of these had been ratified by the legislatures of three-fourths of the states,—some within a single year after their proposal and all within four years. Each of the remaining four had been ratified in some of the states, but not in a sufficient number. Eighty years after the partial ratification of one an effort was made to complete its ratification, and the legislature of Ohio passed a joint resolution to that end, after which the effort was abandoned. Two, after ratification in one less than the required number of states, had lain dormant for a century. The other, proposed March 2, 1861, declared: "No amendment shall be made to the Constitution which will authorize or give to Congress the power to abolish or interfere, within any state, with the domestic institutions thereof, including that of persons held to labor or service by the laws of said state." Its principal purpose was to protect slavery and at the time of its proposal and partical ratification it was a subject of absorbing interest, but after the adoption of the 13th Amendment it was generally forgotten. Whether an amendment proposed without fixing any time for ratification, and which after favorable action in less than the required number of states had lain dormant for many years, could be resurrected and its ratification completed, had been mooted on several occasions, but was still an open question."

The practical construction given to Article 5 by the States seems to be that ratification may be given when the State feels that ratification is deemed necessary.

Again quoting from Dillon v. Gloss, supra:

"We do not find anything in the article which suggests that an amendment once proposed is to be open to ratification for all time, or that ratification in some of the states may be separated from that in others by many years, and yet be effective. We

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do find that which strongly suggests the contrary. First, proposal and ratification are not treated as unrelated acts, but as succeeding steps in a single endeavor, the natural inference being that they are not to be widely separated in time. Secondly, it is only when there is deemed to be a necessity therefor that amendments are to be proposed, the reasonable implication being that when proposed they are to be considered and disposed of presently. Thirdly, as ratification is but the expression of the approbation of the people and is to be effective when had in three-fourths of the states, there is a fair implication that it must be sufficiently contemporaneous in that number of states to reflect the will of the people in all sections at relatively the same period, which of course ratification scattered through a long series of years would not do. These considerations and the general purport and spirit of the article lead to the conclusion expressed by Judge Jameson 'that an alteration of the Constitution proposed to-day has relation to the sentiment and the felt needs of to-day, and that, if not ratified early while that sentiment may fairly be supposed to exist, it ought to be regarded as waived, and not again to be voted upon, unless a second time proposed by Congress.' That this is the better conclusion becomes even more manifest when what is comprehended in the other view is considered; for, according to it, four amendments proposed long ago—two in 1789, one in 1810 and one in 1861—are still pending and in a situation where their ratification in some of the states many years since by representatives of generations now largely forgotten may be effectively supplemented in enough more states to make three-fourths by representatives of the present or some future generation. To that view few would be able to subscribe, and in our opinion it is quite untenable. We conclude that the fair inference or implication from article 5 is that the ratification

must be within some reasonable time after the proposal."

As we construe this opinion the court holds that proposal and ratification are successive steps in a single endeavor and that they are not to be widely separated in time; that amendments spring from necessity, and ratification is by the approbation of the people. Consequently the people who deemed the amendment necessary should participate in the ratification. Ratification establishes that the people deem the amendment necessary. It is therefore logical to conclude that ratification should be brought about by those who felt the necessity of a change in the fundamental law and that ratification should not be left to future generations who had long since forgotten the necessity. It is quite clear from the record that the necessity of an amendment to the constitution to prevent child labor had agitated the minds of the people for many years prior to the proposed amendment to the constitution by the congress. The congress attempted to solve this perplexing problem under the Commerce clause of the Constitution in 1918, six years prior to the passage of the proposed amendment. The action of the congress was held void by this court in Hammer v. Dagenhart, 247 U. S. 251. Congress then turned to the taxing power and attempted to destroy the evil of child labor under that section of the constitution. This action was declared unconstitutional in 1922 in Bailey v. Drexel Furniture Company, 259 U. S. 20.

It evidently appeared to the Congress at that time that the prevention of child labor could be accomplished

only through an amendment to the constitution. This amendment passed the congress in 1924 and was submitted to the legislatures of the several states. It was constantly before the legislatures of the States from 1924 to 1937. In 1924 Arkansas ratified. Georgia and North Carolina rejected. In 1925 Arizona and California ratified and Connecticut, Delaware, Idaho, Indiana, Iowa, Kansas, Louisiana, Maine, Minnesota, Mississippi, Missouri, New Hampshire, North Dakota, Pennsylvania, South Carolina, South Dakota, Tennessee, Texas, Utah, Vermont and Wisconsin either rejected or refused to ratify. In 1926 Florida, Kentucky and Virginia rejected. In 1927 Montana ratified and Maryland rejected. In 1931 Colorado ratified. In 1933 Illinois, Iowa, Maine, Michigan, Minnesota, New Hampshire, New Jersey, Ohio, Oklahoma, Oregon and Washington ratified and Massachusetts rejected. In 1934 Pennsylvania and West Virginia ratified and South Dakota rejected. In 1935 Idaho, Indiana, Utah and Wyoming ratified. In 1937 Kansas ratified and Kentucky rejected. (R. 14-18.)

From this record it is clear that from 1918 until 1937 this question has been before the people constantly; and that the prevention of child labor is still deemed necessary by a large portion of the population of the United States. In only one legislative year, 1929, did the States fail to act affirmatively on this proposed amendment. And yet in view of the subsequent ratifications—nineteen since 1929—this proposed amendment must have been debated before a large number of State Legislatures during the legislative year of 1929.

The potency of the amendment must be determined by what the people deem necessary. It is the deemed necessity for the amendment that gives it life and the same force must continue its life. This is in accord with the statement of Judge Jameson, quoted approvingly by this court (Dillon v. Gloss, supra.) "that an alteration of the Constitution proposed today has relation to the sentiment and the felt needs of today, and that, if not ratified early while that sentiment may fairly be supposed to exist, it ought to be regarded as waived."

The record in this case is replete with evidence that the felt need for the amendment is as strong today as when the resolution was adopted by the congress. The proposed amendment must continue to live as long as it is supported by a recognized need, or until such time as a sort of statute of limitations may be said to have run against any power to ratify the proposal. It appears to us that it may be akin to the law of laches which in a general sense is the neglect for an unreasonable and unexplained length of time, under circumstances permitting diligence, to do what in law should have been done. "The laws serve the vigilant and not those who sleep over their rights." Certainly there has been no lack of vigilance in keeping the necessity of this amendment before the people, and its consideration by their representatives in the state legislatures.

The congress had the power in the adoption of the resolution to place a reasonable limitation on its consideration by the states, but it did not exercise this power. The limitation, if any, must be fixed by this

court and it appears to us that before this court could say that the proposed amendment is dead that it must find that its death is the result of the neglect of the states not to ratify but to fail to continue its consideration. This the states have not done. Much consideration should be given to the fact that no limitation was placed upon the period in which this proposed amendment could be ratified. Congress could have placed a limitation upon the time for ratification but failed to do so. Such action must imply the fact that Congress did not desire to limit the time. For by placing a limitation upon the time for ratification, Congress is limiting a right—the right of States to ratify. Limitation is what the name implies:

> "Statutes of limitation do not confer any right of action, but are enacted to restrict the period within which the right, otherwise unlimited, might be asserted." (37 C. J. 684.)

The failure of Congress to place a limitation upon the time in which the proposed amendment could be ratified is an indication that it did not desire to restrict the States, for limitations had been applied in former submissions.

Petitioners argue that since a seven-year period of limitation was upheld in the case of Dillon v. Gloss, supra, such period of time is controlling in this case. This Court, in that case, only verified the judgment of Congress to the effect that seven years was reasonable in that submission. Each case must rest upon its own

facts. A highly controverted question may demand much more time, not because of any lack of need or interest, but because of concentrated opposition on the part of a few selfishly interested.

There may be occasions, and no doubt are, when Congress discerning the need for amendments greatly in advance of the States, would not desire to place a limitation upon the time for ratification. It would be unusual if Congress did not feel the need for amendments long before the States and their inhabitants did. In such cases Congress realizing the necessity of education, would not desire to limit the time for ratification. The process of ratification would be slow as it has in this case.

There is another argument not advanced by the Courts or students of constitutional law which appeals to us. It will be noted that the Federal Constitution provides two methods of ratifying, i. e., the proposal is submitted to the legislatures or to state conventions. A legislature is a permanent coordinated branch of state government exercising law-making powers under the constitutions of the several states. The personnel comprising the legislature may change from time to time but the powers, privileges, and duties of the legislature are continuing, unaffected and undiminished by any change of personnel. A convention is an extraordinary body of representatives of the people convening only on a special occasion for a specific purpose. It comes into existence for a specific purpose, it acts, and upon adjournment sine die, it becomes functus officio.

The petitioners, throughout their argument urged that the powers of a legislature and constitutional convention are identical with reference to the ratification of a proposed amendment; that those powers are only for the purpose of expressing the sentiments of the people upon the proposed amendment. These statements are but half truths. That the legislature is a permanent body, continually exercising sovereign rights in the government of the state, is completely overlooked by the petitioners. If the congress had specified ratification of a proposed amendment by convention, as it well could have done under the constitution, then some implication might arise that it contemplated an immediate expression of the will of the people concerning the ratification of the proposal. The normal procedure would have been to call the conventions in the several states for the sole and only purpose of passing upon the proposed amendment. Much argument could be made that such action taken by this extraordinary body of representatives was fully and completely binding upon the people. However, we are of the opinion that even under such circumstances a future convention selected in the same way again could take a contrary action and delegate to the general government the governmental powers sought in the proposed amendment. When, however, a convention delegates to the general government the powers sought by the proposed amendment, no future representatives of the people of the state could undo the action taken.

In this case, the Congress has specified that ratification should be made by the legislatures of the several

states. The selection of this method of ratification conveys the idea that the proposal to amend would and should remain alive indefinitely, because that legislative body is alive permanently. It is, however, interesting to note that the petitioner cites no authority nor circumstances to show that this request for additional power has been abandoned by congress. We contend that this proposal to amend the federal constitution remains alive until some effective action is taken by Congress to extinguish it.

The abolition of child labor did not cease to be of vital interest during any of the period since 1924, when this proposed amendment was submitted. It ever has been a matter of paramount importance to our country. States have enacted laws requiring attendance in schools on the part of all children, in order that illiteracy may be replaced by literacy and that our government may be supported and maintained by citizens educated, trained and enlightened on the principles of democracy. Juvenile Courts have been created, Probation officers appointed; playgrounds established and supervised to guide youth toward a true standard of life. Educated citizens with ability and knowledge coming from training are needful to a democracy. Realizing the deterrent to such program coming from private and selfish interests in the form of inducements to work for small pittances, the people realized the necessity for a Child Labor Amendment. That necessity has not diminished, but rather increased. With unemployment increasing the economic need for abolition of Child Labor asserts itself

alongside that of the moral or spiritual need. The proposed Child Labor amendment remains alive because it never ceased to be vital to the present needs of our country, nor was the interest in it stifled.

## CONCLUSION.

We therefore, conclude that the decision of the Court below should be upheld. It is based upon true logic and reasoning, and supported by ample authority.

Respectfully submitted,

CLARENCE V. BECK,
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